

CITY OF PORTLAND, OREGON - BUREAU OF DEVELOPMENT SERVICES



1900 SW Fourth Avenue, Suite 5000 • Portland, Oregon 97201 • www.bds.ci.portland.or.us

Date: September 09, 2008

To: Interested Person

From: Crystal Hitchings, Land Use Services

503-823-7583 / Crystal.Hitchings@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-151975 AD UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Applicant: Ron Whisman

3706 SE Van Water St Portland, OR 97222

Site Address: 3706 SE VAN WATER ST

Tax Account No.: C448

State ID No.: 11E25AA03700

Quarter Section: 3934

Neighborhood: Ardenwald-Johnson Creek, contact Scott Spears at 971-275-3133. **District Coalition:** Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

Other Designations: Unincorporated Multnomah County

Zoning: R7, Residential 7,000 **Case Type:** AD, Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee.

Proposal:

The applicant has applied for an Adjustment Review in order to legalize an existing attached garage through the City's Get Legal Program (the property contains two attached garages). The newer shed-roof style garage is 50-feet by 22-feet in size, and is located to the rear (south) of the existing home and original attached garage, and is 9-feet, 10-inches from the side (east) property line. The existing carport-style overhang, located in the side building setback on the east side of the original attached garage, will be removed.

The R7 zone allows 3,927 square feet of building coverage for the subject site (2,250 sf + 15% of lot area over 5,000 sf—the subject site measures 16,180 square feet). The building coverage of the existing home, covered deck, and attached garage total approximately 3,382 square feet. The new attached garage to the rear contributes 1,100 square feet of building coverage, making the existing building coverage 4,482 square feet, which is 555 square feet over the allowed maximum amount. Therefore, an Adjustment is required to allow the additional building coverage.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 16,180 square foot site is located on the south side of SE Van Waters Street, between SE 36th and SE 40th Avenues, just south of Johnson Creek Boulevard in the City of Milwaukee. The site is developed with a one-story, single-dwelling structure and attached garage, originally built in 1965. A carport-style overhang was constructed on the east side of the original attached garage, in the side building setback, and is in the process of being (or has been) removed. A second attached garage was constructed by the current owner. This garage is located to the rear of the original attached garage and to the rear of the home. Access to the garage is provided through the original attached garage. A covered deck is located to the rear of the home. A wooden fence extends around the side and rear perimeters of the lot, beginning and ending flush with the north (front) façade of the home. The home is located approximately in the center of the lot. Another, detached accessory structure is located in the southwest corner of the lot. The front yard is generally open lawn, and the rear yard is characterized by a number of large evergreen trees. The site is accessed from SE Van Waters Street along a paved driveway leading to the original attached garage. In this location, SE Van Waters Street is a dead-end, local service street with a cul-de-sac and is improved with a 10foot curb only.

Development within a 200-foot vicinity of the subject site is residential, consisting of both oneand two-story homes with detached and attached garages located behind and beside the homes. Lots in the area vary greatly in size and configuration (some orient N/S, some E/W). Homes on larger lots are typically located toward the front, leaving generous rear yards typically landscaped with many large mature trees and open lawn. Located two lots to the southwest of the subject site is a park owned by the City of Milwaukee.

Zoning: The site is zoned R7, Residential 7,000, which is a medium-density, single-dwelling residential zone. The surrounding properties are also zoned R7. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. Single-dwelling zones allow attached and detached single-dwelling residential structures. The zones implement the comprehensive plan policies and designations for single-dwelling housing. Building coverage in the R7 zone is determined by lot size. The site measures 16,180 square feet, and the allowed building coverage is 3,927 square feet.

Land Use History: Land Use History: The project site is located within an unincorporated area of Multnomah County, but lies within Portland's Urban Services and Urban Growth Boundary. The City and Multnomah County have entered into an intergovernmental agreement [IGA] that allows the County to focus on rural land use issues and authorizes the City to administer applicable City of Portland regulations, including zoning requirements, for lands within these so-called 'urban-county pockets'. This intergovernmental agreement was necessary in order for Multnomah County to comply with regional land use laws. While it is important to note that the affected properties have not been annexed into Portland, these sites are subject to City review for building and development permits, as well as Land Use Reviews.

The City zoning implemented on these areas are generally equivalent to what the County had applied, but some variations have occurred. Even with equivalent zoning, the City's codes and regulations vary from the previous Multnomah County requirements. For lands with environmental resources present, the City's environmental overlay zones have been applied, as well. All of these lands within the urban-county pockets are subject to City of Portland standards for stormwater disposal, erosion control, grading and floodplain review. If services [sewer, water, fire] are provided by agencies other than the City, those agencies must be contacted prior to development.

Agency Review: A "Request for Response" was mailed on August 14, 2008. The following Bureaus have responded with no issues or concerns (Exhibit E.1-E.3):

- Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus have responded with additional comments or concerns:

The **Site Development Section of BDS** (Exhibit E.4): gave no objection to the proposal. Onsite infiltration is feasible at this location, and the Simplified design approach may be used for this project. Site Development recommends that the roof runoff be routed directly to a drywell(s) in the rear yard of the project site. A utility plan showing existing and proposed stormwater and sanitary sewer facilities will be required at the time of permit review. The utility plan must show the location of downspouts, rain drains, and stormwater discharge/disposal locations.

The **Life Safety Bureau** (Exhibit E.5): gave no objections to the proposal and submitted comments intended to assist with the permit application process.

The **Bureau of Environmental Services** (Exhibit E.6): gave no objections to the proposal, and submitted informational comments relevant to the building permit process for the benefit of the applicant.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 14, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

A. Granting the adjustment will equally or better meet the <u>purpose</u> of the regulation to be modified; and

Findings: The proposal is for an Adjustment to allow 555 additional square feet of building coverage. The building coverage standard <u>purpose</u> states that:

33.110.225 Building Coverage

<u>Purpose</u>. The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.

The additional building coverage was added to the site through the construction of a single-story, shed-roof style attached garage. The new garage is located at the rear of

the home and original attached garage. The front, west façade of the new garage, which faces the center of the site, is approximately 12 feet tall, including the roof. The rear, east façade of the new garage, which faces the side property line, is approximately 9 feet tall, including the roof. The new garage is slightly lower in height than the existing home and original garage. The footprint of the new garage measures 22 feet deep east/west by 50 feet long north/south. The 50-foot rear, east wall is 9 feet, 10 inches from the east side property line. A six-foot wooden fence extends along the entire east property line. The adjacent lot to the east is developed with a single-story residential structure, which is located approximately 5.5 feet from the common lot line. The home on the adjacent lot is located in approximately the center of the lot, leaving a generous front and rear yard, both of which are characterized by open lawn punctuated by a number of mature trees. The total distance between the structure on the adjacent lot to the east and the new garage on the subject site is 15.25 feet. Photos taken from the side yard of the adjacent lot to the east show that only the roof and a small portion of the east wall of the new garage are visible over the fence that separates the two lots. The garage is located approximately 30 feet from the rear property line, and approximately 65 feet from the west side property line. The home on the adjacent lot to the south is located over 200 feet from the new garage. The home on the adjacent lot to the west is located approximately 90 feet from and north of the garage. Open lawn and numerous mature trees on both the subject site and the adjacent lots to the south and west separate the structures, and the 6-foot fence on the subject site extends around the west and south property lines.

The carport-style overhang constructed on the east side of the original attached garage would add additional building coverage and would also extend into the side building setback. Therefore, the applicant chose to remove the overhang, and it is not included in this review. For this reason, a condition of approval is warranted to require that this overhang be removed prior to the issuance of a building permit for the requested Adjustment.

In summary, the roofline of the new garage pulls the maximum height away from the home on the adjacent lot, maintaining a low profile along the east property line which barely rises above the height of the fence. The east side building setback of the new garage is nearly double that required, further pulling the bulk of the garage away from the home on the lot to the east. The structure is not located near any other homes. Because of this, the overall bulk of the new garage is located away from and does not overwhelm adjacent homes. For these reasons, the garage does not detract from the residential character of the area. This criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The new garage is not visible from SE Van Waters Street. The garage is located away from properties to the west and south, and is well-screened by a wooden fence and numerous mature trees. The most affected property is the lot to the east. From this lot, the new garage is only minimally visible above the wooden fence. The low profile and generous setback help pull the bulk of the new garage away from the home on that lot. The garage was constructed for residential use and is consistent in appearance, scale, and orientation with development on other lots in the area. For these reasons, this criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. This criterion is not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: There are no such resources present on the site. This criterion is not applicable.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: The structure is of a low profile and is located away from homes on adjacent properties. A wooden fence and mature trees separate and screen the garage from adjacent homes. Therefore, there are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The new garage is of a low profile and well set back from and well screened from adjacent homes. The overall bulk does not overwhelm adjacent homes and the additional structure does not detract from the residential character of the area. All criterion are met, and this proposal should be approved.

ADMINISTRATIVE DECISION

Approval of Therefore, an Adjustment to Section 33.110.225 to exceed allowed building coverage by 555 square feet, and to allow a total of 4,482 square feet of building coverage for the purpose of legalizing an existing attached garage, per the approved site plans, Exhibits C-1 through C-3, signed and dated September 05, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by the land use review as indicated in Exhibits C.1-C.3. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE Case File #LU 08-151975 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The carport-style overhang constructed on the east side of the original attached garage shall be removed prior to the issuance of a building permit.

Decision rendered by:

on September 05, 2008.

By authority of the Director of the Bureau of Development Services

Decision mailed: September 09, 2008

Staff Planner: Crystal Hitchings

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on August 4, 2008, and was determined to be complete on August 11, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on August 4, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 23, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails.

Appeal fee waivers. Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190th, Portland, OR 97233.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact

LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after **September 24, 2008 –** (the day following the last day to appeal).
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

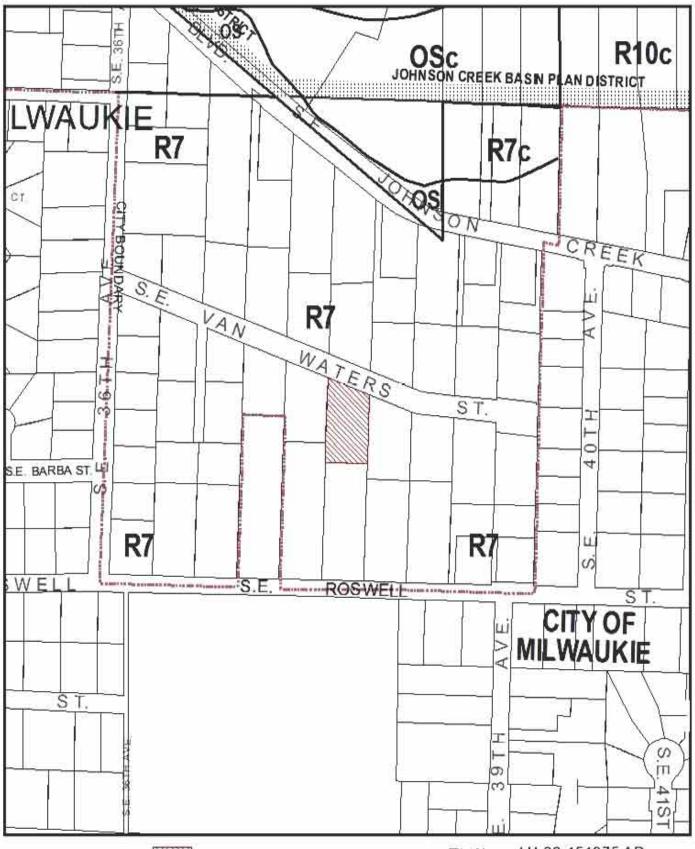
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Drainage
 - 3. Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Water Bureau
 - 3. Bureau of Parks, Forestry Division
 - 4. Site Development Review Section of BDS
 - 5. Life Safety Bureau
 - 6. Bureau of Environmental Services
- F. Correspondence:
 - 1. Ryan Marquardt, City of Milwaukee; August 18, 2008; statement that City of Milwaukee does not have any concerns about the application and that the proposal appears to conform with City of Milwaukee R7 zone standards.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING Ste



LU 08-151975 AD File No. __ 3934 1/4 Section __ 1 inch = 200 feet Scale: 11E25AA03700 State Id В (Aug 06,2008) Exhibit



